

Part III

Administrative, Procedural, and Miscellaneous

[26 CFR §1.1441-7]: Extension of Offer to Resolve Issues Arising from Certain Tax, Withholding, and Reporting Obligations of U.S. Withholding Agents with Respect to Payments to Foreign Persons

Amendment to Sunset Date of Section 1441 Voluntary Compliance Program under Rev. Proc. 2004-59

Rev. Proc. 2005-71

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 2004-59, 2004-42 I.R.B. 678, to extend the sunset date of the Section 1441 Voluntary Compliance Program (“Section 1441 VCP”) to March 31, 2006.

SECTION 2. BACKGROUND

Rev. Proc. 2004-59 set forth the provisions of the Section 1441 VCP, a program that is available to certain withholding agents with respect to the withholding, payment, and reporting of certain taxes due on payments to foreign persons.

The IRS initiated the Section 1441 VCP as a temporary program. Section 6 of Rev. Proc. 2004-59 provided that the Section 1441 VCP became effective September

29, 2004 and would be available for submissions made on or before December 31, 2005.

The volume of Section 1441 VCP submissions has increased steadily since the inception of the program. Many withholding agents that wish to participate in the program will not be able to complete the submission process before December 31, 2005 and will be excluded from participation in the VCP without an extension. To enable such withholding agents to participate in the VCP, this revenue procedure amends Section 6 of Rev. Proc. 2004-59 to extend the sunset date of the program for three months, to March 31, 2006. In addition, this revenue procedure amends Section 5.01, which allows taxpayers to request extensions to complete VCP submissions under certain circumstances. This revenue procedure provides that, for section 1441 VCP submissions made after December 31, 2005, no extensions will be granted beyond June 30, 2006.

SECTION 3. EXTENSION OF SUNSET DATE

Sections 5 and 6 of Rev. Proc. 2004-59 are amended as follows.

In Section 5.01, the following sentence is added after the existing text. “For section 1441 VCP submissions made after December 31, 2005, no extensions will be granted beyond June 30, 2006.”

In Section 6, the second sentence is amended by deleting “December 31, 2005” and inserting in its place, “March 31, 2006.” A third and fourth sentence are added as follows: “A Section 1441 VCP submission may not be made for calendar year 2005 Forms 1042 and 1042-S. A Section 1441 VCP submission made after December 31,

2005, must include an executed Form 872, Consent to Extend the Time to Assess Tax, consenting to extend for one additional year the time to assess tax with respect to amounts reportable on Form 1042 for the 2002 year. If the withholding agent has filed a Form 945 for the 2002 year, it should further include an executed Form SS-10, Consent to Extend the Time to Assess Employment Taxes, to extend the assessment period for income tax withholding for an additional year.

SECTION 4. INQUIRIES

For further information regarding the Section 1441 VCP contact the Section 1441 VCP Coordinator at (212) 298-2698 (not a toll-free number).

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2004-59 is modified.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective September 29, 2004, the effective date of Rev. Proc. 2004-59.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Kathryn Holman of the Office of Associate Chief Counsel (International). For further information regarding this revenue procedure contact Kathryn Holman at (202) 622-3840 (not a toll free call).